REMARKS

Claims 1-103 remain in this application.

In the Office Action dated January 11, 2005, the Examiner rejected claims 1-103 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that the Applicants have failed to provide support for claiming that the polymerizate is non-elastomeric. Applicants respectfully traverse this rejection.

Applicants submit that several general rules have emerged from the Federal Circuit regarding the written description requirement. First, the subject matter of the claim need not be described literally or "in ipsis verbis" in order for the specification to satisfy the description requirement. *See, e.g., Cordis Corp. v. Medtronic Ave., Inc.*, 339 F.3d 1352 (Fed. Cir.), *reh'g denied*, 2003 U.S. App. LEXIS 22508 (2003); *In re Lukach*, 442 F.2d 967, 969, 169 U.S.P.Q. 795, 796 (C.C.P.A. 1971). Furthermore, it is sufficient that the specification "convey clearly to those skilled in the art the information that the applicant has invented the specific subject matter later claimed." *See, e.g., In re Wertheim*, 541 F.2d 257, 262, 191 U.S.P.Q. 90, 96 (C.C.P.A. 1976); *In re Ruschig*, 379 F.2d 990, 996, 154 U.S.P.Q. 118, 123 (C.C.P.A. 1967).

Applicants submit that the term "non-elastomeric" has an ordinary meaning and thus, the term "non-elastomeric" would be clearly understood by one having ordinary skill in the art. The term "elastomer" is defined as polymer(s) having "...the ability to be stretched to at least twice their original length and to retract very rapidly to approximately their original length when released. Among the better-known elastomers introduced since the 1930's are styrene-butadiene copolymer, polychloroprene (neoprene), nitrile rubber, butyl rubber, polysulfide rubber,..." (See *The Condensed Chemical Dictionary, Tenth Edition*). Applicants submit that the term "non-elastomeric" would mean polymer(s) that do not have the ability to be stretched to at least twice their original length and are unable to retract very rapidly to approximately their original length when released.

The specification (see page 4, lines 16-22) discloses that the polymerizate of the invention has an initial Barcol hardness of at least 1. The term "hardness" has an ordinary meaning in the art. The term "hardness" has been defined as "The resistance of a material to deformation of an indenter of specific size and shape under a known load." (See *The Condensed Chemical Dictionary, Tenth Edition*). In the specification, Examples 2, 3 and 4 describe the

preparation of plastic sheets. On page 26, lines 14-15, it is disclosed that "The examples demonstrate the excellent high refractive index, high Abbe number and hardness (impact resistance) of the polymerizate of the present invention."

Moreover, the specification (see page 20, lines 24-27) discloses that the polymerizate of the invention has good impact strength. The term "impact strength" has an ordinary meaning in the art. The term "impact strength" has been defined as "The ability of a material to accept a sudden blow or shock without fracture or other substantial damage, measured by standard impact-testing equipment." (See *The Condensed Chemical Dictionary, Tenth Edition*).

Furthermore, the specification discloses that polymerizates prepared in accordance with the claimed invention will be solid and suitable for optical or ophthalmic applications, such as optical lenses, ophthalmic lenses, sun lenses, windows, automotive transparencies and aircraft transparencies (see the specification page 20, line 22 to page 21, line 2).

Based on the disclosure in the specification of the above-mentioned characteristics of the claimed invention (e.g., hardness, impact strength, etc.) and the ordinary meaning of the term "non-elastomeric", Applicants submit that adequate support and guidance is clearly provided for claiming a non-elastomeric polymerizate. Thus, Applicants submit that the rejection of claims 1-103 under 35 U.S.C. 112, first paragraph should not stand.

The Examiner rejected claims 1-103 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Applicants submit that the Federal Circuit has had an opportunity to decide a number of enablement issues. "The enablement requirement is satisfied when one skilled in the art, after reading the specification, could practice the claimed invention without undue experimentation." *AK Steel Corp. v. Sollac*, 344 F.3d 1234, 1244 (Fed. Cir. 2003), citing *In re Wands*, 858 F.2d 731, 736-37 (Fed. Cir. 1988). Applicants submit that adequate guidance which would enable one of ordinary skill in the art to make and use the claimed non-elastomeric polymerizate is clearly provided in the specification. The specification is directed to preparation of a polymerizate by polymerizing a two-component composition. The specification includes a detailed disclosure of the various materials used in preparing the two-component composition, the means of polymerizing the composition, and the characteristics of the resultant polymerizate (see page 4, lines 16-22, page 20, lines 24-27, and page 20, line 22 to page 21, line 2). Applicants submit that in view of the specification, one of ordinary skill in the art could

clearly practice the claimed invention without undue experimentation and therefore, the enablement requirement is clearly satisfied.

Moreover, the term "elastomer" and thus, "non-elastomeric", has an ordinary meaning. The term "elastomer" has been defined as polymer(s) having "...the ability to be stretched to at least twice their original length and to retract very rapidly to approximately their original length when released. Among the better-known elastomers introduced since the 1930's are styrene-butadiene copolymer, polychloroprene (neoprene), nitrile rubber, butyl rubber, polysulfide rubber,..." (See *The Condensed Chemical Dictionary, Tenth Edition*). Thus, Applicants submit that the term "non-elastomeric" would be defined as polymer(s) that do not have the ability to be stretched to at least twice their original length and are unable to retract very rapidly to approximately their original length when released.

Furthermore, in the specification on page 20, line 11, it is disclosed that various conventional additives such as but not limited to flexibilizing additives can be added to the composition. Applicants submit that the disclosure provides support for the resultant polymerizate not being a flexible material. If a flexible material is desired, a flexibilizing additive can be added to produce such a polymerizate.

In view of the disclosure in the specification, Applicants submit that the claimed non-elastomeric polymerizate is clearly enabled and thus, the rejection of claims 1-103 under 35 U.S.C. 112, first paragraph, should not stand.

Applicants submit that claims 1-103 are in condition for allowance and therefore, respectfully request reconsideration of these claims.

Very truly yours,

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